



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,353	02/23/2004	Kenneth L. Miller	075234.0131	2325

5073 7590 06/30/2005

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

HSU, RYAN

ART UNIT	PAPER NUMBER
----------	--------------

3713

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,353

Applicant(s)

MILLER, KENNETH L.

Examiner

Ryan Hsu

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-5, and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Boylan, III et al. (USPN 6,712,701).

In reference to claims 1 and 9, Boylan discloses an interactive wagering system and process that is used for executing transactions with racing wagers. It uses information provided by totalisators to provide racing information such as odds and up to date race information on events while the user is placing odds (*see abstract*). The system allows for the user to place wagers using a GUI (graphic-user interface) to lead a wagerer through the process of selecting a number of events to be included in their wager (ie: several different racetracks or different racing sports) (*see FIG. 6 and the related description thereof, col. 5: ln 6-26*). Additionally, Boylan allows a player to choose which of the event's races the player would like to make a wager on (ie: which races at the different race tracks they would like to participate). Furthermore, Boylan allows the wager transaction to allow the player to select whom they believe the winners will be and finally paying the player if the player's winners win the races the player has chosen (*see FIG. 6(a-b) and the related description thereof*). In addition, Boylan implements his wagering service on a computer networked system that allows for pooling at least a portion of each amount

Art Unit: 3713

wagered of money to form a pool (*see col. 5: ln 59-col. 6: ln 24*). The pools are monitored by the totalisators, which inherently communicate with the different racetracks and provide up to date information on the results of races. This information is then linked up to the database in Boylan's system and identifies the winners that have selected the correct results and returns at least a portion of the money within the pool to one or more of the winners if one or more winners exists (*see col. 5: ln 58-col. 6: ln 15*).

Claims 4-5, Boylan provides an interactive wagering service that links up a player's wagers to an account wherein the player is paid if the player's winners win all or some of the races in the wagers they have selected (*see col. 5: ln 5-27, col. 7: ln 62-col. 8: ln 12*).

Claim 10-13, Boylan's system links up the selected results of the game card/form in its transaction database where all of the player's selections of predicted winners for each race are logged and tracked (*see col. 5: ln 5-27*). This data is transferred to the computer, which is then stored in the database. The results of the racing events are input into the computer through the totalisators that constantly update and feed information into the system (*see col. 7: ln 62-67, col. 8: ln 1-12*). Furthermore, Boylan's system allows users to place wagers on various races from several different racetracks, therefore allowing the subset of races to be from nonconsecutive races (*see col. 5: ln 59-col. 6: ln 24*).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boylan III et al as applied to claims above, and further in view of Brenner et al. (US 5,830,068).

Claims 2-3 and 6-7, Boylan provides a wagering system for gambling on horse races however does not provide limitations for the quantity of event's races to be included then a game to be less than the number of races in the event. Boylan offers instead a user the ability to participate in none or all of the events and any of the other various increments in between that are provided in its system thus encompassing the limitations found in the current application. Boylan lacks in disclosing an ability to limit the number of races in a wager to five.

However, Brenner in an analogous wagering system discloses a limitation where a wager queue is used to transmit information from the terminals to the database. Brenner discloses that in its system a user may place additional wagers but is limited by the state of the queue to five wagers per form (*see col. 12: ln 9-26*). Brenner states that the wager queue is physically limited to space for five wagers before any additional wagers can be added. One would be motivated to implement this limitation in order to reduce the load placed on the processor so that it would not be inundated with information at one time. Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to modify Boylan to incorporate this physical limitation into its analogous wagering system, wherein the number selected for the quantity of the event's races to be included in the game is less than the number of races in the event and the number is five (*see FIG. 8-12 and related description thereof*).

Conclusion

Art Unit: 3713

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

LaNeve (US 2003/0125822 A1) – Wagering Interface System and Method.

Mindes (US 5,573,244) – System and Method for Wagering at Fixed Handicaps and/or Odds on a Sports Event.

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M Thai can be reached at (571)-272-7147.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).



RH

June 24, 2005



XUAN M. THAI
SUPERVISORY PATENT EXAMINER
TC3700